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IN THE

SUPREME COURT OF THE UNITED STATES

Nos. 2, 3, and 4, Original

OCTOBER TERM, 1956

STATES OF WISCONSIN, MINNESOTA, OHIO and PENNSYLVANIA, Complainants, v. STATE OF ILLINOIS and the SANITARY DISTRICT OF CHICAGO, Defendants.	No. 2 Original
STATE OF MICHIGAN, Complainant, v. STATE OF ILLINOIS and the SANITARY DISTRICT OF CHICAGO, et al., Defendants, STATES OF MISSOURI, KENTUCKY, TENNESSEE, LOUISIANA, MISSISSIPPI, and ARKANSAS, Intervening Defendants.	No. 3 Original
STATE OF NEW YORK, Complainant, v. STATE OF ILLINOIS and the SANITARY DISTRICT OF CHICAGO, et al., Defendants.	No. 4 Original

Motion of the States of Wisconsin and Ohio to Dismiss the Motion of the State of Illinois for Extension of the Order of December 17, 1956

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JAMES S. DeLEON, Assistant Attorney General of Ohio

THE GILMAN PRESS, MADISON, WISCONSIN

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To the Honorable

The Chief Justice and Associate Justices
of the United States:

Comes now the State of Wisconsin by Stewart G. Honeck, Attorney General, and Roy G. Tulane, Assistant Attorney General, attorneys for the State of Wisconsin, William Saxbe, Attorney General, and James F. DeLeon, Assistant Attorney General, attorneys for the State of Ohio, and move this Court to dismiss with costs the motion of the State of Illinois for an extension of the order of this Court of December 17, 1956, which modified paragraph 3 of the decree of April 21, 1930, as amended, upon the following grounds:

1. The motion of the State of Illinois to extend the order of December 17, 1956 which authorized an increased diversion of Great Lakes waters to the Chicago Drainage Canal presents no change in circumstances which were the basis of the said order of December 17, 1956, which was to terminate on January 31, 1957 and hence presents no grounds for modifying or extending such order.

(a) The order of this Honorable Court entered December 17, 1956 was based upon the facts as set forth in the petition of the State of Illinois filed in November, 1956.

(b) Pursuant to said decree of December 17, 1956, under the supervision of the corps of engineers of the United States Army, the Metropolitan Sanitary District of Greater Chicago has increased its daily diversion to an average of 7,500 cubic feet per second, plus domestic pumpage.

(c) The present motion of the State of Illinois pleads, and we concede, that the emergency in navigation caused

by low water on the Mississippi River has been alleviated by the above described diversion.

(d) The motion of the State of Illinois presents no facts to this Honorable Court as to the increase in water levels at the critical point on the Alton locks, presents no facts to this Court as to the present levels of the said critical point, presents no facts as to the nature of the barge shipping now proceeding through the Alton locks, either in the upper reaches of the Mississippi or in the Illinois waterway.

(e) On information and belief, that there is comparatively little or no barge traffic on the Mississippi River northerly of Alton, and that such traffic as exists does not proceed further than Keokuk, Iowa, that by the time substantial navigation is restored on the Mississippi, the flood stages of the Mississippi will have commenced, and that any added water coming through the Illinois waterway and the Chicago canal would constitute a detriment rather than an advantage to barge shipping upon the Mississippi River.

2. The Great Lakes States have, as has the United States of America itself, a paramount interest in maintaining the levels of the Great Lakes as an international waterway serving the Great Lakes ports and in opposing the diversion of waters properly allocable to the watershed of the Great Lakes to any other watershed or drainage basin.

3. The water level in Lake Michigan has declined more than 3 feet from the high stages of 1952 with corresponding declines in all lower Great Lakes including Lake Erie, and

all reasonable prospects are that this decline will continue in effect for substantial periods in the future.

Respectfully submitted,

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Dated January 21, 1957.